

CITY OF BELLEVUE  
CITY COUNCIL

Summary Minutes of Extended Study Session

July 13, 2009  
6:00 p.m.

Council Conference Room 1E-113  
Bellevue, Washington

PRESENT: Mayor Degginger, Deputy Mayor Balducci, and Councilmembers Bonincontri, Chelminiak, Davidson, and Lee

ABSENT: None.

1. Executive Session

Deputy Mayor Balducci called the meeting to order at 6:00 pm., and announced recess to Executive Session for approximately 15 minutes to address one item of labor negotiations.

The meeting resumed at 6:16 p.m., with Mayor Degginger presiding.

2. Oral Communications

(a) Introduction of Bellevue Sister Cities Association Exchange Students

Mayor Degginger welcomed guests from the Bellevue Sister Cities Association. Hugh Burleson, President of the Bellevue Sister Cities Association, introduced Caroline Ruwe, a student from Mercer Island who will travel to Kladno in the Czech Republic, and Tereza Semeradova from Kladno. Mayor Degginger welcomed Tereza to Bellevue, and wished both students well in their studies and travel experiences.

(b) Phillip Keightley testified that Lochmoor residents are concerned about the loss of views from the development of mega houses. He submitted a petition signed by 59 residents who wish to protect their property rights and home values by preserving their views. Mr. Keightley asked that the Council adopt policies and codes to protect views. He expressed opposition to the proposed 35-foot building heights, and recommended limiting development to two-story houses.

(c) Barbara Keightley expressed concern regarding the changing character of the Lochmoor neighborhood and stated her opposition to mega houses.

- (d) Susan Allen, a Lochmoor resident, commended the City for addressing the mega homes issue. However, she urges the Council to allow more time for study, consideration and input on the Phase 2 mega home neighborhood livability issue. She asked the Council to move the issue to next year's work plan, and to address each neighborhood individually. Ms. Allen reviewed the concerns of Lochmoor residents regarding the loss of views including the negative impact on property values and that residents are paying taxes on their homes as view properties.
- (e) Mary Collins described problems associated with a neighbor's property including the periodic loss of electricity to her home during construction, garbage, broken glass, rats and other animals, and dried grass. She further explained that stakes identifying her property boundary adjacent to the home have been removed. The watering system on the adjacent yard overlaps onto her property as well.
- (f) Betsy Blackstock, a Surrey Downs resident, spoke regarding the project to remodel Bellevue High School. She said that residents within 500 feet of the site were notified of the project. However, her property is 533 feet from the site. She asked the Council to amend the City's rules to require that noticing include established neighborhood organizations.
- (g) Eileen Edmondson described concerns regarding a neighbor's property. She said the lot was built up two feet higher than her lot, and then the builder put shrubs on the property boundary that are 10 feet tall and will grow five feet wide. She has a six-foot fence along the back of her yard but her privacy has been lost because the neighboring lot is now elevated. She questioned whether she is allowed to have an eight-foot fence, and whether it can extend out to 108<sup>th</sup> Avenue.

### 3. Study Session

#### (a) Council Business and New Initiatives

Councilmember Davidson explained that staff is preparing a letter to the King County Conservation District regarding the distribution of funds. Councilmembers will receive a copy of the draft letter next week, for approval during the Council meeting the following Monday. Joyce Nichols of the Utilities Department is preparing key points for the letter.

- (1) Discussion of process and possible consideration of appointment for Councilmember Phil Noble's position on City Council

City Manager Steve Sarkozy opened discussion regarding the appointment of a citizen to fill the unexpired term of Councilmember Phil Noble.

Councilmember Lee noted his previous request for a response from the Office of the Attorney General regarding the rules governing the election to fill the Councilmember position this fall. He has not received the requested information.

Myrna Basich, City Clerk and Assistant City Manager, explained that she has a written response from Sherril Huff, King County Director of Elections, describing how King County intends to handle the Bellevue City Council vacancy. The letter confirms King County's reading of state law that no withdrawals from the June filings will be accepted. In addition, any citizen who has already filed cannot also file for the newly vacant position. The Attorney General's Office has advised that a limited number of persons are authorized to request an opinion from the Attorney General, and that authority does not extend to local jurisdictions. However, the City's Deputy City Attorney Kate Berens has conducted a significant amount of research on the issue and has not found any information that conflicts with King County's course of action.

Mayor Degginger observed that the information presented by staff appears to answer the questions posed by Councilmember Lee.

Deputy Mayor Balducci recalled the previous recruitment to fill a Council vacancy in which Mike Creighton competed and was identified as a top candidate because he has a great deal of relevant experience. Given the brief duration of the appointment, it would be difficult for someone without previous Council experience to come up to speed in terms of the Council's processes.

→ Deputy Mayor Balducci moved to appoint Mike Creighton to fill the vacant Council position. Councilmember Davidson seconded motion.

Councilmember Chelminiak said he will support the motion. Councilmember Bonincontri concurred.

Councilmember Lee stated that Mr. Creighton is well qualified, and he will support the appointment.

→ The motion to appoint Mike Creighton to the vacant Council position carried by a vote of 6-0.

(b) Sound Transit East Link Project Update and Follow-up on Funding for City's East Link Work Program

City Manager Steve Sarkozy welcomed Sound Transit staff to provide an update on the East Link light rail project.

Councilmember Davidson noted that he was absent from the last East Link discussion, but wished to make some comments based on his viewing of the meeting. He expressed concern regarding the cost of the planning effort, including expenditures for separate studies and analysis by both Sound Transit and City staff. He expressed concern that Capital Investment Program (CIP) funds are limited due to decreased sales tax and business and occupation tax collections. He would like a broader discussion of the CIP and overall finances, perhaps at a Council retreat. He questioned why Sound Transit calls its preferred alternative the locally preferred alternative.

Dr. Davidson stated that Sound Transit's B3 Modified alternative is not the same as the City's B3 Modified alternative. He questioned the accuracy of Sound Transit's draft Environmental Impact Statement (DEIS) with regard to the noise levels generated by light rail that recently began operating from Seattle to Tukwila.

Ric Ilgenfritz, Sound Transit, provided an update on the status of the East Link project since the Sound Transit Board action to adopt a locally preferred alternative. He reminded everyone that the Seattle light rail service is beginning operation on Saturday, July 18. Mr. Ilgenfritz recalled that on May 14 the Sound Transit Board identified a locally preferred alternative, which is a federal term used to advance transportation design activities.

Don Billen, Sound Transit, reported that the Sound Transit Board identified the following preferred alternative modifications for review in the final EIS: 1) Side running alignment along the east side of Bellevue Way and 112<sup>th</sup> Avenue SE, 2) Impacts to medical buildings on NE 12<sup>th</sup> Street, 3) Study the option of a grade-separated crossing over 116<sup>th</sup> Avenue, 4) Study the option of a retained cut alignment through the Spring District, and 5) Overlake and downtown Redmond alignment modifications. The Sound Transit Board directed a peer review of downtown Bellevue operations using at-grade light rail. The Board further directed a response to questions from the City of Bellevue regarding a comparison of options C2T and C3T.

The final EIS includes all 19 routes alternatives studied in the DEIS, and design remains at the conceptual engineering level. The FEIS will provide an updated environmental analysis incorporating recently adopted land uses in the Bel-Red Subarea and other Puget Sound Regional Council (PSRC) land use revisions; a transportation analysis; and a noise analysis review based on experience with the Seattle system. The response to draft EIS comments will include a screening of proposals for new or modified alternatives.

Mr. Billen outlined the environmental review timeline. Preliminary engineering work will update cost estimates and define the project scope for final design, advance station and alignment design, update base mapping, and conduct a geotechnical exploration. City of Bellevue staff will be involved in a value engineering and constructability review as part of the preliminary engineering work. Engineering for a portion of I-90, including the bridge, will go beyond the 30 percent design level. Publication of the FEIS and Sound Transit Board adoption of the final alternative is anticipated by the fall of 2010. Additional public open houses and workshops will be held this fall.

Mr. Billen noted the Sound Transit Board's direction that any additional funding sources for a tunnel through downtown Bellevue should be formally identified by the City of Bellevue within one month after completion of the 15 percent design cost estimates, or by the first quarter of 2010. The Board requests a list of potential funding sources by this September. Mr. Billen explained that Sound Transit revenues are down by about 15 percent, or \$2.1 billion, as a result of the downturn in the economy. A new forecast is expected by September, and the 2010 budget will need to reflect updated revenues.

Mr. Billen said the state legislature acted during its last session to include a provision in its capital budget directing the Washington State Department of Transportation (WSDOT) and Sound Transit to conduct an independent review of valuation methodologies for I-90, and directing that the agencies negotiate an agreement for the use of the right-of-way by December 2009. This work is currently underway, and a preliminary draft report from the consultant team to the Sound Transit Board is anticipated for the Board's July 23 meeting. The report will identify applicable state and federal laws and regulations that apply to the use of the I-90 center roadway for transit, and a set of different methodologies for valuing the right-of-way. The valuation work is to be completed by this fall.

Mayor Degginger questioned whether the budget and revenue constraints could affect the timetable for completion of Sound Transit 2 projects.

Mr. Ilgenfritz said Sound Transit staff provided a preliminary report to the Board in February when the financial plan was updated. Staff is working internally to develop implementation priorities for the whole program, and will be engaging with the Board during the 2010 budget process this fall. The Board is expected to take action on the budget in November. Mr. Ilgenfritz explained that Sound Transit has a 15-year capital program which includes significant service components. The development of implementation priorities will focus on optimizing the phasing of expenditures and investments to implement the Sound Transit 2 plan most effectively and efficiently.

In further response to Mayor Degginger, Mr. Ilgenfritz said the North Link project (University District to Northgate) is a step ahead of the East Link project, and Sound Transit is looking at how to move that project into design and construction. Sound Transit is using a programmatic implementation strategy to best facilitate all Phase 2 projects, however.

Responding to Councilmember Davidson, Mr. Billen stated that much of the information shared by staff with the Bellevue City Council was presented to the Sound Transit Board. In addition, staff presented a summary of public comments that had been received. He noted that the City had an opportunity to present its recommendation directly to the Board. There are a number of areas in which there is a strong alignment between what the Bellevue City Council recommended and what the Sound Transit Board identified in its preferred alternative including stations at Main Street and the Bellevue Transit Center, as well as two locations in the Bel-Red corridor. The only station location that differs between the two agencies is service to the hospital district.

Councilmember Chelminiak observed that the trains running in the Seattle tunnel are quiet but he recommends eliminating the loud bell. With regard to bringing Bellevue's B segment preferred route to the 30 percent engineering level, he questioned what will happen if problems arise and a decision is made to conduct further engineering on a different option. He questioned how and when such a decision might be made, and how much time Bellevue would have to study and influence that decision.

Mr. Billen explained that a similar situation occurred during preliminary engineering on the University Link project due to issues encountered with the Beacon Hill and First Hill portions.

In that case, Sound Transit staff recommended the elimination of the First Hill station. The draft EIS included a route alternative without the station, and therefore work on the final EIS moved forward. However, additional time was ultimately needed to advance the preliminary engineering.

Mr. Chelminiak expressed an interest in advancing engineering work on the B3 and B7 alternatives, in order to be prepared for the possibility of a change by Sound Transit in the option to be implemented. In further response to Councilmember Chelminiak, Mr. Billen explained that if a fatal flaw is discovered in the B3 modified alternative, the information would be provided to the Sound Transit Board immediately to request guidance as to how to proceed.

Councilmember Chelminiak would like Sound Transit's decisions to be based on solid engineering facts. He expressed concern about choosing a preferred alternative earlier than completion of the 30 percent engineering level.

Following on Mr. Chelminiak's comments, Councilmember Lee said he would want the Sound Transit Board to rely on what Bellevue has already recommended as alternatives, which is the B3 modified or B7 options.

Councilmember Lee objected to the timeline set for Bellevue to identify additional funding for a downtown tunnel. He noted that Bellevue residents, like everyone else, pay taxes to fund Sound Transit projects. Yet Bellevue is expected to meet funding conditions imposed by Sound Transit.

Deputy Mayor Balducci concurred with the concerns expressed by Councilmembers Chelminiak and Lee. She wants to ensure that Bellevue would have the opportunity to have significant input into the decision process should changes be made in the preliminary locally preferred alternative.

Ms. Balducci commented that most of the light rail system is very quiet. Responding to Ms. Balducci, Mr. Billen said higher noise levels occur on the Tukwila elevated portions of the light rail system because the vehicles are traveling at their top speed of 55 miles per hour. Under federal noise guidelines, the amount of noise that can be added to the environment is dependent upon existing ambient noise levels. In Tukwila, there is fairly loud traffic noise and therefore the amount of additional noise that can be added is low. If the conditions had been known during design, the impacts would have been addressed. Sound Transit is now looking at the best way to mitigate the impacts, whether through a noise wall along the guideway or residential sound insulation for the affected homes.

Deputy Mayor Balducci stated her assumption that anything learned from this experience will be applied in the development of other light rail segments. She congratulated the Sound Transit Board and staff on the opening of the Seattle-Tukwila service.

Councilmember Bonincontri added her congratulations as well. Responding to Ms. Bonincontri, Mr. Billen said that for downtown Bellevue, Sound Transit is advancing both the at-grade alternative and the 108<sup>th</sup> tunnel to the 15 percent design level. Sound Transit will then update cost estimates and return to the Board during the first quarter of next year with that

information before they select a single downtown alternative to complete preliminary engineering.

Mayor Degginger encouraged Sound Transit to advance engineering work as quickly as possible in order for the information to be available for public comment this fall. Mr. Ilgenfritz said Sound Transit's preliminary engineering work was delayed somewhat due to the Board's timeline for selecting the locally preferred alternative. As a result, two rounds of open houses are scheduled to provide information as it becomes available in order for citizens to have the opportunity to provide feedback.

Councilmember Davidson noted that Sound Transit's consideration of a station at Main Street and 112<sup>th</sup> includes an assumption for transit oriented development. The affected area at the north end of the Surrey Downs neighborhood would require rezoning for this to occur, which is why the Council suggested a station farther west.

Dr. Davidson stated that it is unrealistic to expect Bellevue to secure funding for a downtown tunnel by early 2010. He noted that federal funding was obtained for Seattle's tunnel. Councilmember Davidson requested information from City staff regarding the taxes that fund the Capital Investment Program (CIP) Plan.

City Manager Steve Sarkozy said there are concerns and questions from residents and the Council as to when Sound Transit decisions will be made. He requested information from Sound Transit regarding the approval of project elements throughout the Seattle system process. He noted the interest in determining the likelihood of changes in the project elements at each step of the process.

Mr. Ilgenfritz said he will follow up with additional information. He recalled that the schedule anticipates the selection of a final preferred alternative for the entire alignment by the first quarter of 2010. Sound Transit is working to complete the environmental documents and adopt the project for implementation by the fall of 2010.

Councilmember Chelminiak stated that transparency in the decision-making process is important to Bellevue residents.

Responding to Councilmember Davidson, Mr. Ilgenfritz said the Sound Move plan indicates that if the Northgate light rail segment is not completed as part of Sound Transit Phase 1, it is to be the first project built as part of Phase 2. However under Sound Transit's concept of subarea equity, the Northgate project is financed by the North King County subarea and the East Link project is financed by the East King County area. Sound Transit's finance plan is based on moving both projects forward.

In further response to Dr. Davidson, Mr. Ilgenfritz said two grants were received from the federal government's New Starts program for Seattle's system. The first grant was expended on the initial segment that opened recently (\$500 million), and the second grant helps fund the University extension currently under construction (\$813 million). Sound Transit has no current

applications to secure additional federal grants from the program. However, the initial thinking is that the North Corridor between Northgate and Lynnwood will be the best regional competitor for a third New Starts grant. Mr. Ilgenfritz said additional grant funding is available through smaller federal programs, and the East Link project finance plan assumes approximately \$200 million in federal funding through these sources.

Responding to Councilmember Chelminiak, Mr. Billen said Sound Transit and City staff are coordinating their planning efforts with regard to newly adopted land uses in the Bel-Red corridor.

Responding to Councilmember Davidson, Mr. Billen said the possibility of building the eastern portion of the East Link system before its connection to Seattle has been considered. However, the operation of a light rail system requires both light and heavy maintenance facilities. A light maintenance facility is planned in the long term for the Eastside, but there are no plans to duplicate a heavy maintenance facility on the Eastside. In addition, a primary goal of the East Link system is to connect two major activity centers, Seattle and the Eastside.

Mayor Degginger declared a five-minute recess. The meeting was reconvened at 8:14 p.m.

Mr. Sarkozy opened discussion regarding proposed Capital Investment Program (CIP) fund transfers to support staff's work on the East Link project.

Kevin O'Neill, Assistant Director of Transportation, recalled previous discussion with the Council regarding the need for funding to support staff's work on the East Link project. The work plan includes analysis of the C4A downtown at-grade alternative, engineering support for the B3 modified alternative, additional environmental analysis, and the identification of downtown tunnel funding resources. The work will be completed by City staff and consultants.

Mr. O'Neill described proposals to transfer funds to the new East Link project (PW-R-159) from PW-R-44, Transportation planning studies (\$150,000); PW-R-130, High Capacity Transit Study (\$40,000); PW-R-147, Downtown Implementation Plan (DIP) projects (\$320,000); PW-R-153, Early implementation of the Bel-Red Corridor Plan (\$200,000); and ED-2, an Economic Development downtown parking initiative (\$300,000). The reallocation of resources from the CIP and operating fund sources cited will have implications for other work that the City will not be able to accomplish during the 2009-2010 period. However, the proposed reallocations utilize funds set aside for purposes that are closely related to the East Link work.

Responding to Mayor Degginger and Dr. Davidson, Planning and Community Development Director Matt Terry confirmed that the CIP funds are available despite the decrease in CIP revenues. Staff has made near-term adjustments to the CIP Plan to respond to cash flow constraints, and long-term balancing of the CIP Plan will be discussed with the Council in the future.



Responding to Councilmember Chelminiak, Mr. O'Neill said that the majority of the work to be completed using the fund transfers is consistent with the original purpose intended for the monies. However, the funds are being reallocated to the new East Link project in the CIP Plan.

Responding to Mayor Degginger, Mr. O'Neill said a large portion of funding to be preserved in PW-R-153 (Bel-Red implementation) is to be used for staff work related to the 124<sup>th</sup> NE-SR 520 interchange project as well as for a number of other projects. The total estimated cost of the items is approximately \$1.9 million. Mr. O'Neill said he will provide a full list of the projects.

Responding to Councilmember Chelminiak, Mr. O'Neill said expenditures from PW-R-44 in 2009 included updating the Transportation Facilities Plan (TFP) and conducting the periodic mode share survey. In further response to Mr. Chelminiak, Mr. O'Neill said that PW-R-147 has funded additional analysis of the 106<sup>th</sup>/108<sup>th</sup> one-way couplets, downtown wayfinding, initial Great Streets effort, and the Main Street conceptual design project. The majority of the remaining funding is the additional \$400,000 that Council allocated to support broader planning work. Some of the implementation work, for example for mid-block crossings and Great Streets, has been moved to other accounts. The Main Street conceptual work has been put on hold.

Councilmember Chelminiak commented that with so many demands on the City, it is unfortunate that the City must spend considerable monies to support and evaluate the work of another agency.

Deputy Mayor Balducci stated that although the City has been involved in the planning for this major regional investment, there have been some changed circumstances. It is important that the City conduct its own studies and utilize its expertise to influence the project for the benefit of Bellevue citizens. She expressed concern that there is not enough transparency to easily identify which projects are included within some of the CIP Plan line items.

Responding to Ms. Balducci, Capital Programming Manager Eric Miller confirmed that the sidewalk project approved by the Council at the time the last TFP was adopted has been added to the TFP.

In further response to Ms. Balducci regarding downtown parking plans, Mr. Terry said the original concept was for the City to look for opportunities to partner with private developers to expand the short-term parking supply in key locations. However, the budget has been reduced, which affects the City's ability to contribute toward the parking supply. Mr. Terry suggested that the Council might want to examine parking solutions associated with the future expansion of Downtown Park when that project moves forward. In addition, when the City is able to refocus on downtown parking in the future, the Council could consider at that time whether to restore funding for parking partnerships.

Councilmember Lee expressed concern regarding the transfer of funds from previously established priorities, and he wants to better understand the impacts of doing so. Before he is willing to allocate \$1 million to the proposed work in support of the East Link project, he wants

to ensure the expenditures and scope of work will ultimately provide a significant benefit for Bellevue.

Councilmember Bonincontri commented that most of her questions have been answered. Regarding parking, she noted that a downtown building project across from her office has been put on hold, and the building has seven levels of parking that have been completed and could be leased. Responding to Ms. Bonincontri, Mr. Terry clarified that the original parking project was focused on the short-term parking supply. The Meydenbauer Bay plan creates new demand for parking, and the Downtown Park expansion project would eliminate surface parking that now serves the park and Old Bellevue. These circumstances were not anticipated during the last update of the Downtown Implementation Plan (DIP). In further response, Mr. Terry said that implementation of the downtown circulator service is anticipated to relieve parking needs in the future.

Responding to Councilmember Bonincontri, Mr. O'Neill said that the recent update to the TFP was fairly extensive, incorporating many new projects for the Bel-Red and Wilburton areas. He does not expect the next TFP update to be as extensive or to require the amount of transportation modeling support work as the most recent update. However, staff recommends retaining some funding to support transportation projects already identified in the CIP Plan.

Councilmember Davidson expressed concern that East Link funds will be spent on the Rainier Station in Seattle, which is outside of the Sound Transit East Subarea.

Councilmember Chelminiak stated that he has heard considerable concern about the \$300,000 related to downtown parking. He suggested reducing the CIP fund transfers from \$1 million to \$700,000. He further suggested that the \$300,000 can be addressed by the Council again during the mid-biennium budget update.

→ Councilmember Chelminiak moved to authorize the transfer of \$700,000 to the new East Link Project, PW-R-159, and to review the \$300,000 allocated for the Downtown Parking Initiative during the next budget update. Mayor Degginger seconded the motion.

Mayor Degginger stated that the work plan identified by staff for the East Link project is necessary due to the significant land use and transportation implications for Bellevue. However, his preference would be to not transfer funding from the Downtown Parking Initiative

Mayor Degginger asked the Council to consider reallocating \$300,000 out of the Bel-Red project (PW-R-153) now and retaining \$300,000 in the Downtown Parking Initiative (ED-2).

Deputy Mayor Balducci expressed support for staff's original proposal. However, she will support the motion with the understanding that if an issue arises with regard to downtown parking, the Council will address it at that time.

Councilmember Lee said he is hesitant to support the work plan unless he can be assured that Bellevue's preferred alternatives will be advanced. He expressed concern that the work plan

does not sufficiently study the Council's options (e.g., B3 Modified and B7) in order to be prepared for a timely response should Sound Transit choose alternatives that are counter to the City's preferences.

Councilmember Davidson said he will not support the motion and reiterated his interest in the Council scheduling a financial retreat.

Councilmember Bonincontri expressed support for the motion.

→ The motion to authorize the transfer of \$700,000 to the new East Link Project, PW-R-159, and to review the \$300,000 allocated for the Downtown Parking Initiative during the next budget update, carried by a vote of 4-2 with Councilmember Davidson and Councilmember Lee opposed.

(c) Neighborhood Livability Phase II

Planning Director Dan Stroh opened discussion regarding the Neighborhood Livability Phase 2 initiative, noting that the Planning Commission recommends more strict Land Use Code provisions to mitigate the impacts of large-scale homes through a balanced approach.

Cheryl Kuhn, Neighborhood Outreach Manager, recalled that the major concerns with regard to neighborhood redevelopment involving larger homes are the loss of trees and greenscape, incompatible size and scale, loss of light and privacy, and construction impacts. She said a number of options were considered by the Planning Commission including citywide tree removal limits, floor-area ratio limits, redevelopment obstacles/penalties (e.g., a tear-down tax), and design review. The Commission also studied the experiences of other cities in regulating impacts.

Vicki Orrico, Planning Commission Chair, explained that the Commission was focused on providing a balanced approach to regulating redevelopment impacts that would be fair to all entities. The purpose is not to prevent redevelopment, but to limit the impacts to neighbors and to be flexible for those who are redeveloping. She recalled that Phase 1 Code amendments were adopted in December 2007. Phase 2 recommendations were presented to the Council in July 2008, and were revised in December 2008. The Commission held a public hearing in May 2009.

Matthews Jackson, Neighborhood Development Planning Manager, reviewed the proposed Phase 2 Land Use Code Amendments to: 1) Increase tree retention requirement for new subdivisions from 15 percent to 30 percent, 2) Address the impacts of mechanical/HVAC equipment, 3) Adopt development standards for large residential buildings, and 4) Mitigate the impacts of building heights.

Mr. Jackson explained that the development standards for residences exceeding 0.5 FAR are applicable to new homes, new short plats, and existing homes adding more than 20 percent gross floor area. The standards do not apply to new subdivisions, or to homes that do not affect a

neighbor's daylight plane. Of the 42 new single-family permits issued in 2008, only four homes would have been affected by these regulations.

Mr. Jackson described the proposed development standards affecting floor-area ratio (FAR) limitations, building heights and the daylight plane, and the second story stepback. Staff provided examples illustrating how the regulations affect the development and appearance of redeveloped structures, and responded to questions of clarification from the Council.

Mayor Degginger thanked staff for the presentation involving complicated issues.

Responding to Councilmember Bonincontri, Legal Planner Catherine Drews confirmed that the City does not enforce private residential covenants and would not delay permit issuance based on a pending civil matter involving covenants. In further response to Councilmember Bonincontri, Ms. Drews said adding stipulations to permits that would make them subject to covenants is a policy issue that would need to be studied by Development Services in order to assess the potential impacts. She added that a legal analysis would be needed as well.

City Manager Steve Sarkozy concurred that it would be a marked change in policy. He asked staff to provide additional response on the issue within the next week.

Councilmember Davidson suggested that one way to approach the issue of preserving neighborhood character would be to use covenants as a foundation for defining and implementing desired policies. Responding to Dr. Davidson, Mr. Jackson explained that the City has avoided getting involved with covenants due to the legal complexity and the difficulty of enforcement related to private civil matters. The City does have enforcement authority over plat restrictions that have been recorded.

Councilmember Davidson said he has toured mega houses in the community. While he supports the City's and Planning Commission's direction to date, he feels there is a need to address neighborhood character beyond technical development standards.

Deputy Mayor Balducci concurred with Councilmember Davidson that the next step is to explore the issue of neighborhood character. She suggested a concept involving neighborhood-specific templates established by residents and accompanied by some type of incentive to encourage development and redevelopment within the defined template or parameters.

Deputy Mayor Balducci spoke to the importance of context sensitivity, noting that larger homes can be built in a way to blend in and not dominate existing development. Responding to Ms. Balducci, Mr. Jackson said it is possible to obtain an exemption for a FAR standard, for example, if a permit applicant could demonstrate that adjacent properties exceed the threshold.

Councilmember Chelminiak acknowledged the challenge and complexity of covenant enforcement. He feels that his neighborhood would prefer to address covenant violations as a community, rather than asking the City to become involved. However, he would like Phase 3 of the neighborhood livability initiative to address view preservation.

- Deputy Mayor Balducci moved to extend meeting until 10:30 p.m., and Mayor Degginger seconded the motion.
- The motion to extend the meeting carried by a vote of 6-0.

Councilmember Lee concurred with Ms. Balducci's observation that development standards should be based on neighborhood character and context.

Mayor Degginger highlighted the key issues raised by the Council, expressing general support for the Planning Commission's recommendations and the direction of staff. He is hesitant to become involved with covenant enforcement. However, he suggested that perhaps some of the neighborhood character issues could be addressed through subarea planning and updates.

Councilmember Bonincontri clarified that she is not advocating for the City's enforcement of covenants. However she is suggesting that when the City issues a permit, applicants be reminded that the permit is based on the Land Use Code and that they might want to refer to their neighborhood's covenants as well, if any exist. She concurred with Ms. Balducci's proposed approach involving neighborhood templates and incentives to encourage residents to comply with the defined guidelines. Ms. Bonincontri expressed general support for the Phase 2 recommendations, and suggested extending the work plan to address issues of neighborhood character, including recent concerns from the Lochmoor neighborhood.

Staff responded to additional brief questions. Mayor Degginger suggested scheduling the discussion of proposed Phase 2 City Code amendments for a future meeting.

(d) Comcast Cable TV Franchise Extension

Jerome Roache, Assistant City Attorney, noted that the Comcast franchise expires at the end of July. The franchise was originally limited to five years due to the City's concerns that Comcast continue to maintain and upgrade its system.

David Kerr, Information Technology Manager, reviewed proposed amendments to the existing franchise agreement to be reflected in the franchise extension. One modifies the definition of gross revenues to be consistent with Comcast's existing practice. A second amendment continues the existing Public, Educational and Government monthly access fee of 25 cents per subscriber, to be used for the future replacement of government access video equipment. The equipment was originally purchased through a \$450,000 payment from Comcast, which it recouped through the 25-cent monthly fee.

Mr. Kerr said staff is requesting direction to prepare a Resolution amending and extending the Comcast cable franchise, for Council action on July 20.

Responding to Deputy Mayor Balducci, Mr. Kerr explained that the amended definition of gross revenues is consistent with generally accepted accounting principles, and with Comcast's

existing practices with regard to the calculation of gross revenues. Ms. Balducci requested more information on the issue including previous negotiations by Bellevue and the experience and practices of other jurisdictions.

Responding to Councilmember Chelminiak, Mr. Kerr said that proceeds from the 25-cent monthly fee can only be used for capital expenses related to Public, Educational and Government access programming.

Councilmember Davidson noted a letter indicating that Comcast has submitted 31 right-of-way permit applications and has not received a response. Mr. Kerr confirmed that there is no relationship between the franchise extension and permit processing.

At 10:30 p.m., Mayor Degginger declared the meeting adjourned.

Myrna L. Basich  
City Clerk

kaw